

PROPOSED CONSTITUTIONAL AMENDMENTS

PROPOSED CONSTITUTIONAL AMENDMENTS— COURT OF CRIMINAL APPEALS

S. J. R. No. 18

Proposing an amendment to Article V of the Texas Constitution to provide for a court of criminal appeals with nine judges and to permit the court to sit in panels of three judges.

Be it resolved by the Legislature of the State of Texas:

Section 1. That Article V, Section 1 of the Texas Constitution, be amended to read as follows:

"Sec. 1. Judicial Power; Courts in Which Vested

"The judicial power of this State shall be vested in one Supreme Court, in one Court of Criminal Appeals, in Courts of Civil Appeals, in District Courts, in County Courts, in Commissioners Courts, in Courts of Justices of the Peace, and in such other courts as may be provided by law.

"The Legislature may establish such other courts as it may deem necessary and prescribe the jurisdiction and organization thereof, and may conform the jurisdiction of the district and other inferior courts thereto."

Sec. 2. That Article V, Section 4 of the Texas Constitution, be amended to read as follows:

"Sec. 4. Court of Criminal Appeals; Judges

"The Court of Criminal Appeals shall consist of eight Judges and one Presiding Judge. The Judges shall have the same qualifications and receive the same salaries as the Associate Justices of the Supreme Court, and the Presiding Judge shall have the same qualifications and receive the same salary as the Chief Justice of the Supreme Court. The Presiding Judge and the Judges shall be elected by the qualified voters of the state at a general election and shall hold their offices for a term of six years. In case of a vacancy in the office of a Judge of the Court of Criminal Appeals, the Governor shall, with the advice and consent of the Senate, fill said vacancy by appointment until the next succeeding general election.

"For the purpose of hearing cases, the Court of Criminal Appeals may sit in panels of three Judges, the designation thereof to be under rules established by the court. In a panel of three Judges, two Judges shall constitute a quorum and the concurrence of two Judges shall be necessary for a decision. The Presiding Judge, under rules established by the court, shall convene the court en banc for the transaction of all other business and may convene the court en banc for the purpose of hearing cases. The court must sit en banc during proceedings involving capital punishment and other cases as required by law. When convened en banc, five Judges shall constitute a quorum and the concurrence of five Judges shall be necessary for a decision. The Court of Criminal Appeals may appoint Commissioners in aid of the Court of Criminal Appeals as provided by law."

Sec. 3. That Article V, Section 5 of the Texas Constitution, be amended to read as follows:

"Sec. 5. Jurisdiction of Court of Criminal Appeals; Terms of Court; Clerk

"The Court of Criminal Appeals shall have appellate jurisdiction co-extensive with the limits of the state in all criminal cases of whatever grade, with such exceptions and under such regulations as may be prescribed by law.

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"Subject to such regulations as may be prescribed by law, regarding criminal law matters, the Court of Criminal Appeals and the Judges thereof shall have the power to issue the writs of habeas corpus, mandamus, procedendo, prohibition, certiorari, and such other writs as may be necessary to protect its jurisdiction or enforce its judgments. The court shall have the power upon affidavit or otherwise to ascertain such matters of fact as may be necessary to the exercise of its jurisdiction.

"The Court of Criminal Appeals may sit for the transaction of business at any time during the year and each term shall begin and end with each calendar year. The Court of Criminal Appeals shall appoint a clerk of the court who shall give bond in such manner as is now or may hereafter be required by law, and who shall hold his office for a term of four years unless sooner removed by the court for good cause entered of record on the minutes of said court.

"The Clerk of the Court of Criminal Appeals who may be in office at the time when this Amendment takes effect shall continue in office for the term of his appointment."

Sec. 4. The following transition provisions apply when this amendment takes effect:

(1) The judges of the court of criminal appeals at the time this amendment takes effect remain judges of the court of criminal appeals and continue in office until the expiration of the term of office for which each has been elected or appointed under the constitution as it now exists and until his successor shall have been duly qualified.

(2) Each of the two members of the commission of appeals in aid of the court of criminal appeals as constituted under Section 1a, Chapter 462, Acts of the 62nd Legislature, Regular Session, 1971, as amended (Article 1811e, Vernon's Texas Civil Statutes), who are in office at the time this amendment takes effect, shall become a judge of the court of criminal appeals and shall hold his office, one for a term of three years and one for a term of five years, beginning on January 1, 1978, and until his successor shall have been duly qualified. Said judges shall by agreement or otherwise designate the incumbent for each of the terms mentioned and shall inform the governor of such designation within 30 days of the effective date of this amendment.

(3) On or after January 1, 1978, the governor shall, with the advice and consent of the senate, appoint two qualified persons as judges of the court of criminal appeals. The judges appointed by the governor shall hold office from the date of appointment and shall be nominated to the senate in the manner of appointments made during the recess of the senate as provided in Article IV, Section 12 of the Texas Constitution. Judges so appointed by the governor shall hold office until the first general election occurring after January 1, 1978, and until their successors are duly qualified. Judges elected at the first general election occurring after January 1, 1978, shall hold office for terms of six years beginning January 1, 1979, and until their successors are duly qualified.

Sec. 5. Should the legislature enact legislation in anticipation of the adoption of this amendment, such law shall not be invalid by reason of its anticipatory character.

Sec. 6. The foregoing constitutional amendment shall be submitted to a vote of the qualified electors of this state at an election to be held on the first Tuesday after the first Monday in November, 1977, at which election the ballots shall be printed to provide for voting for or against the proposition: "The constitutional amendment increasing the size of the

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court of criminal appeals to nine judges, and permitting the court to sit in panels of three judges."

Sec. 7. If adopted, the constitutional amendment proposed in this resolution becomes effective on January 1, 1978.

Adopted by the senate on March 1, 1977: Yeas 28, Nays 3; May 16, 1977, senate concurred in house amendment: Yeas 30, Nays 1; adopted by the house, with amendment, on May 11, 1977: Yeas 125, Nays 16, one present not voting.

Filed without signature.

Filed with the Secretary of State, May 26, 1977.

PROPOSED CONSTITUTIONAL AMENDMENTS— ASSOCIATIONS OF AGRICULTURAL PRODUCERS

S. J. R. No. 19

Proposing a constitutional amendment relating to the formation of associations by producers of agricultural products.

Be it resolved by the Legislature of the State of Texas:

Section 1. That Article XVI of the Texas Constitution be amended by adding Section 68 to read as follows:

"Sec. 68. (a) The legislature may authorize the formation of associations by producers of poultry, livestock, and other raw agricultural or marine commodities for the collection of assessments on their product sales voted by the producers. The assessments may not be considered a tax if provision is made for the full refund of assessments on request of individual producers.

"(b) Chapter 462, Acts of the 60th Legislature, Regular Session, 1967, as amended, is validated. All referenda and proceedings in conformity with that Act carried out prior to November 8, 1977, are validated, except that no person may be required to pay assessments levied under that Act prior to November 8, 1977."

Sec. 2. The foregoing constitutional amendment shall be submitted to a vote of the qualified electors of this state at an election to be held on the Tuesday after the first Monday in November, 1977, at which election the ballots shall be printed to provide for voting for or against the proposition: "The constitutional amendment authorizing the formation of agricultural or marine associations which may mandate the collection of refundable assessments for improvement of production, marketing, or use of their products."

Adopted by the senate on January 31, 1977: Yeas 28, Nays 2; May 26, 1977, senate concurred in house amendments: Yeas 26, Nays 1; adopted by the house, with amendments, on May 24, 1977: Yeas 109, Nays 27, two present not voting.

Filed without signature.

Filed with the Secretary of State, May 30, 1977.